HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

WRIT APPEAL No.771 OF 2007

Between:

Nagulakonda Manga Raju

. . .Appellant

AND

Kunjam Ganga Raju Dora and others

. . .Respondents

:: JUDGMENT ::

Counsel for the appellant : Shri N.Siva Reddy

Counsel for the respondents 1 to 3 : Shri Badana Bhaskara Rao

28th September, 2007

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Per G.S.SINGHVI, CJ

This is an appeal for setting aside order dated 05.06.2007 passed by the learned Single Judge in Writ Petition No.18845 of 2006, whereby he directed the official respondents not to interfere with the civil rights of the writ petitioners (respondent Nos.1 to 3 herein) over the land measuring 4.04 hectares comprised in Survey No.27 of Lothupalem Village, Devipatnam Mandal, East Godavari District.

In the writ affidavit filed by petitioner No.1 (respondent No.1 herein) – Kunjam Ganga Raju Dora, it was averred that the petitioners (respondent Nos.1 to 3 herein) are in peaceful possession and enjoyment of the land measuring 4.04 hectares comprised in Survey No.27 of Lothupalem Village, Devipatnam Mandal, East Godavari District since before the coming into force of the Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959, as amended by Regulation 1 of 1970; that they developed the land and are cultivating the same; that Station House Officer, Devipatnam Police Station, East Godavari District (respondent No.4 herein) tried to interfere with their possession on 21.7.2006 on the pretext of investigating the complaint made by rival claimants, and that he refused to consider the factum of their long possession.

In the counter filed by him, Sri R. Anka Babu, Sub-Inspector of Police, Devipatnam Police Station, denied the allegation of the writ petitioners that he was trying to interfere with their possession.

The learned Single Judge did not consider the issue relating to the right and entitlement of the writ petitioners to occupy the land in question and disposed of the writ petition in the following terms:

"Having regard to the facts and circumstances of the case, the writ petition is disposed of directing the official respondents not to interfere with the civil rights of the petitioners over the said land and as and when the petitioners approach them for rendering necessary protection, the

police shall take appropriate action in accordance with law……..”

We have heard learned counsel for the parties and scrutinised the records. At the outset, we may mention that the appellant was not a party to the writ petition and by an order dated 05.09.2007 passed in WAMP.No.1356 of 2007, this Court granted him leave to file appeal because he claimed that he was granted patta in respect of the disputed land as early as in 1996.

In the context of the assertion made by the appellant that he was granted patta of the land in dispute in 1996, we enquired from the learned counsel for respondent Nos.1 to 3 about the truthfulness or otherwise of the said assertion. In reply, Sri B. Bhaskara Rao fairly stated that patta of the land stands in the name of the appellant. He then submitted that the matter may be remanded to the learned Single Judge for fresh adjudication of the petition filed by his clients.

In view of the fair stand taken by the learned counsel for respondent Nos.1 to 3, we do not consider it necessary to adjudicate on the legality of the direction given by the learned Single Judge and dispose of the appeal by setting aside the order under challenge with the direction that the writ petition be listed before an appropriate Bench for fresh adjudication. Ordered accordingly.

Respondent Nos.1 to 3 shall, within a maximum period of two weeks from today, file an application in the writ petition for impleading the appellant herein and other persons who may be in possession or having title over the disputed land as party respondents.

G.S.SINGHVI, CJ

28th September, 2007

C.V.NAGARJUNA REDDY, J

kvni/ARS